REMARKS/ARGUMENTS

Claims 1-46 are pending in the present application. The Examiner has rejected claims 1-14, 23-28, 31, 35, 36, and 38-43. The Examiner has objected to claims 15-22, 29, 30, 32-34, 37, and 44-46. Applicant respectfully requests reconsideration of pending claims 1-46.

The Examiner has objected to claim 19, alleging of the following informalities: The acronyms LDP and RSVP are used without proper prior definitions. Applicant has amended claim 19. Applicant submits that no new matter has been added, as Applicant submits that the meanings of the acronyms LDP and RSVP were well known in the art at the time of the invention. Moreover, Applicant submits that, since the meanings of the acronyms LDP and RSVP remain unchanged, the scope of claim 19 remains unchanged. Therefore, Applicant submits that the amendment is merely cosmetic in nature. However, Applicant submits that the objection of claim 19 has been obviated. Thus, Applicant submits that claim 19 is in condition for allowance.

The Examiner has objected to claim 30, alleging the following informalities: "The data communication of claim 24" in the first line is a typographical error of "The data communication network of claim 24." Applicant has amended claim 30. Applicant submits that no new matter has been added, as Applicant submits that the meaning of claim 30 remains unchanged and the amendment corrects a typographical error. Therefore, Applicant submits that the amendment is merely cosmetic in nature. However, Applicant submits that the objection of claim 30 has been obviated. Thus, Applicant submits that claim 30 is in condition for allowance.

The Examiner has objected to claim 36, alleging the following informalities: The acronym SPVC is used without proper definitions. Applicant has amended claim 36. Applicant submits that no new matter has been added, as Applicant submits that the meaning of the acronym SPVC is recited on page 1, lines 18 and 19, of the specification. Moreover, Applicant submits that, since the meaning of the acronym SPVC remains unchanged, the scope of claim 36 remains unchanged. Therefore, Applicant submits that the amendment is merely cosmetic in nature. However, Applicant submits that the objection of claim 36 has been obviated. Thus, Applicant submits that claim 36 is in condition for allowance.

The Examiner has rejected claim 7 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant

regards as the invention. The Examiner states that claim 7 recites the limitation "the switched connection," for which the Examiner alleges there is insufficient antecedent basis. Applicant has amended claim 7. Applicant submits that the amendment is merely cosmetic in nature and preserves the intended meaning of claim 7. However, Applicant submits that the rejection of claim 7 has been obviated. Thus, Applicant submits that claim 7 is in condition for allowance.

The Examiner has rejected claims 1-5, 23, 24-28, 35, 36, 39, 42, and 43 under 35 U.S.C. § 102(a) as being anticipated by Petersen et al. (U.S. Patent No. 6,049,530). Applicant respectfully disagrees.

Regarding claim 1, Applicant submits that Petersen et al. fail to disclose the claimed invention as set forth in claim 1. For example, Applicant submits that Petersen et al. fail to disclose "establishing the connection in the data communication network, wherein the connection is managed by the control plane." While the Examiner cites column 4, lines 30-37, as teaching such a feature, Applicant respectfully disagrees. As a specific example, Applicant can find no reference to "wherein the connection is managed by a control plane" within column 4, lines 30-37, of Petersen et al.

As another example, Applicant submits that Petersen et al. fail to disclose "monitoring status of a selected characteristic of the connection using a user connection monitoring function." While the Examiner cites column 2, lines 56-59, as teaching such a feature, Applicant respectfully disagrees. As a specific example, Applicant can find no reference to "using a user connection monitoring function" within column 2, lines 56-59. Rather, column 2, lines 56-59, of Petersen et al. merely describe "another objective" of Petersen et al. as being "to provide a simplified and more efficient procedure for detecting and locating segments causing data degradation so that critical network resources are conserved" but fail to teach any manner in which to do so, particularly "using a user connection monitoring function."

As another example, Applicant submits that Petersen et al. fail to disclose "when the status of the selected characteristic is determined to be unacceptable, initiating control plane rerouting of the connection." While the Examiner cites column 2, lines 50-55, of Petersen et al. as teaching such a feature, Applicant respectfully disagrees. As a specific example, Applicant can find no reference to "initiating control plane rerouting of the connection." Rather, column 2, lines 50-55, of Petersen et al. merely describes an "objective" of Petersen et al. as being "to provide a more efficient procedure for locating segments causing data degradation in a telecommunications network so that a network

manager can properly re-route data packets around these points, as required, to improve the quality of the overall connection" but fails to teach any manner in which to do so, particularly by "initiating control plane rerouting of the connection."

For the foregoing reasons, Applicant submits that the cited reference fails to anticipate the present invention as set forth in claim 1. Therefore, Applicant submits that claim 1 is in condition for allowance.

Regarding claim 2, Applicant submits that Petersen et al. fail to disclose the claimed invention as set forth in claim 2. For example, Applicant submits that Petersen et al. fail to disclose "wherein the selected characteristic includes continuity on the connection." While the Examiner cites column 7, lines 1-4, as teaching such feature, Applicant respectfully disagrees. The cited portion of Petersen et al. states, "In a preferred embodiment, the segment performance characterization factors include a packet count and/or a block error detection code, as stated above." Petersen et al. further states, in column 6, lines 15-26, "...the source node 205 generates a packet count and/or a block error detection code (e.g., a bit interleaved parity bit-wise per octet code)...In general, the source node 205 stores the generated value for the segment performance characterization factor or factors in a check AAL2 packet 235, and then transmits the check AAL2 packet 235 to the first intermediate node 210." However, the specification of the present application, on page 4, lines 23-25, states, "Continuity monitoring will determine if the data flow along the connection is interrupted such that data flow is essentially halted." Thus, Applicant submits that the cited reference fails to anticipate and, moreover, teaches away from the claimed invention as set forth in claim 2. Therefore, Applicant submits that claim 2 is in condition for allowance.

Regarding claim 3, Applicant submits that Petersen et al. fail to disclose the claimed invention as set forth in claim 3. For example, Applicant has presented above arguments for the allowability of claim 1, from which claim 3 depends. Thus, Applicant submits that claim 3 is also in condition for allowance.

Regarding claim 4, Applicant submits that Petersen et al. fail to disclose the claimed invention as set forth in claim 4. For example, Applicant has presented above arguments for the allowability of claim 1, from which claim 4 depends. Thus, Applicant submits that claim 4 is also in condition for allowance.

Regarding claim 5, Applicant submits that Petersen et al. fail to disclose the claimed invention as set forth in claim 5. While the Examiner cites Figure 4 of Petersen et al. as allegedly teaching "the control plane is a signaling plane," Applicant can find no reference to either a "control plane" or a "signaling plane" in Figure 4 of Petersen et al. Thus, Applicant submits that the Examiner has not presented a *prima facie* showing of Petersen et al. as allegedly anticipating the present invention as set forth in claim 5. Therefore, Applicant submits claim 5 is in condition for allowance.

Regarding claim 23, Applicant submits that Petersen et al. fail to disclose the claimed invention as set forth in claim 23. For example, Applicant submits that Petersen et al. fail to disclose "a control block operably coupled to the source node and the destination node, wherein the status of a selected characteristic associated with the diagnostic traffic is determined to be unacceptable, the control block performs a control plane reroute that establishes a second connection that couples the source node and the destination node." While the Examiner cites column 2, lines 50-55, of Petersen et al. as teaching such a feature, that portion of Petersen et al. merely describes an "objective" of Petersen et al. as being "to provide a more efficient procedure for locating segments causing data degradation in a telecommunications network so that a network manager can properly re-route data packets around these points, as required, to improve the quality of the overall connection" but fails to teach any manner in which to do so, particularly "a control block operably coupled to the source node and the destination node, wherein...the control block performs a control plane reroute that establishes a second connection that couples the source node and the destination node." More specifically, Applicant can find no teaching in the cited portion of Petersen et al. of "a control block operably coupled to the source node and the destination node," of "a control plane reroute," or of "a second connection that couples the source node and the destination node." Thus, Applicant submits that Petersen et al. fails to anticipate the claimed invention as set forth in claim 23. Therefore, Applicant submits that claim 23 is in condition for allowance.

Regarding claim 24, Applicant submits that Petersen et al. fail to disclose the claimed invention as set forth in claim 24. For example, Applicant has presented above arguments for the allowability of claim 23, from which claim 24 depends. Thus, Applicant submits that claim 24 is also in condition for allowance.

Regarding claim 25, Applicant submits that the cited portion of Petersen et al. fails to disclose the claimed invention as set forth in claim 25. While the Examiner cites column 9, lines 10 and 11, as teaching "wherein the diagnostic traffic includes operation and management (OAM) continuity

checking cells," the cited portion of Petersen et al. states, "...or factors (e.g., a packet count and/or a block error detection code such as a bit interleave parity code) is accumulated...." Applicant can find no teaching of the claimed feature in the cited portion of Petersen et al. Thus, Applicant submits that the Examiner has not presented a *prima facie* showing of Petersen et al. as allegedly anticipating the claimed invention as set forth in claim 25. Therefore, Applicant submits that claim 25 is in condition for allowance.

Regarding claim 26, Applicant submits that the cited portion of Petersen et al. fails to disclose the claimed invention as set forth in claim 26. While the Examiner cites column 5, lines 8-11, as teaching "wherein the status of the selected characteristic is determined to be unacceptable when loss of continuity is detected for a time period that exceeds a predetermined threshold," the cited portion of Petersen et al. states, "Upon receiving the activation AAL2 packet, which contains, among other things, an estimation as to how long the segment performance monitoring session is expected to last,...." Applicant can find no teaching of the claimed feature in the cited portion of Petersen et al. For example, Applicant can find no teaching of the "estimation as to how long the segment performance monitoring session is expected to last" as relating to "when loss of continuity is detected for a period of time." Thus, Applicant submits that the Examiner has not presented a *prima facie* showing of Petersen et al. as allegedly anticipating the claimed invention as set forth in claim 26. Therefore, Applicant submits that claim 26 is in condition for allowance.

Regarding claim 27, Applicant submits that the cited portion of Petersen et al. fails to disclose the claimed invention as set forth in claim 27. For example, Applicant has presented above arguments for the allowability of claim 24, from which claim 27 depends. Thus, Applicant submits that claim 27 is also in condition for allowance.

Regarding claim 28, Applicant submits that the cited portion of Petersen et al. fails to disclose the claimed invention as set forth in claim 28. While the Examiner cites column 16, lines 2-17, as teaching "wherein the status of the selected characteristic is determined to be unacceptable when a property associated with OAM performance monitoring exceeds a predetermined threshold," the cited portion of Petersen et al. states, "Upon receiving the check AAL2 packet, the segment performance monitoring logic 935 similarly analyzes the generated and measured values in the check AAL2 packet, and, if necessary, the segment performance monitoring logic 935 also compares the generated value to the accumulated value. During the report phase, the segment performance monitoring logic 935 converts the check AAL2 packet into a report AAL2 packet by changing the UUI field in the AAL2

packet header to reflect an end-to-end packet, and by changing the OAM header from the binary code combination specifying a check AAL2 packet to the binary code combination specifying a report AAL2 packet. The segment performance monitoring logic 935 then causes the report AAL2 packet to be transmitted back to the source node, through the OAM multiplexer 925, the AAL2 link multiplexer 915, and over the AAL2 link 905." Applicant can find no teaching of the claimed feature in the cited portion of Petersen et al. Thus, Applicant submits that the Examiner has not presented a *prima facie* showing of Petersen et al. as allegedly anticipating the claimed invention as set forth in claim 28.

Regarding claim 35, Applicant submits that the cited portion of Petersen et al. fails to disclose the claimed invention as set forth in claim 35. For example, Applicant has presented above arguments for the allowability of claim 23, from which claim 35 depends. Thus, Applicant submits that claim 35 is also in condition for allowance.

Regarding claim 36, Applicant submits that the cited portions of Petersen et al. fail to disclose the claimed invention as set forth in claim 36. For example, Applicant submits that Petersen et al. fail to disclose "establishing the soft permanent virtual connection (SPVC) in the ATM data communication network, wherein the connection is managed by a control plane." While the Examiner cites column 4, lines 30-37, as teaching such a feature, Applicant respectfully disagrees. As a specific example, Applicant can find no reference to "wherein the connection is managed by a control plane" within column 4, lines 30-37, of Petersen et al.

As another example, Applicant submits that Petersen et al. fail to disclose "using operation and maintenance (OAM) cells to monitor at least one characteristic of the connection." While the Examiner cites column 2, lines 56-59, as teaching such a feature, Applicant respectfully disagrees and submits that column 2, lines 56-59, of Petersen et al. merely describe "another objective" of Petersen et al. as being "to provide a simplified and more efficient procedure for detecting and locating segments causing data degradation so that critical network resources are conserved" but fail to teach any manner in which to do so, particularly as recited in claim 35.

As another example, Applicant submits that Petersen et al. fail to disclose "when status of the at least one characteristic is determined to be unacceptable, initiating control plane rerouting of the connection." While the Examiner cites column 2, lines 50-55, of Petersen et al. as teaching such a feature, Applicant respectfully disagrees. As a specific example, Applicant can find no reference to "initiating control plane rerouting of the connection." Rather, column 2, lines 50-55, of Petersen et al.

merely describes an "objective" of Petersen et al. as being "to provide a more efficient procedure for locating segments causing data degradation in a telecommunications network so that a network manager can properly re-route data packets around these points, as required, to improve the quality of the overall connection" but fails to teach any manner in which to do so, particularly by "initiating control plane rerouting of the connection."

For the foregoing reasons, Applicant submits that the cited reference fails to anticipate the present invention as set forth in claim 35. Therefore, Applicant submits that claim 35 is in condition for allowance.

Regarding claim 39, Applicant submits that Petersen et al. fail to disclose the claimed invention as set forth in claim 39. While the Examiner cites Figure 4 of Petersen et al. as allegedly teaching "the control plane is a signaling plane," Applicant can find no reference to either a "control plane" or a "signaling plane" in Figure 4 of Petersen et al. Thus, Applicant submits that the Examiner has not presented a *prima facie* showing of Petersen et al. as allegedly anticipating the present invention as set forth in claim 39. Therefore, Applicant submits claim 39 is in condition for allowance.

Regarding claim 42, Applicant submits that the cited portion of Petersen et al. fails to disclose the claimed invention as set forth in claim 42. For example, Applicant submits that Petersen et al. fails to disclose "detecting a fault in the connection in the user plane." While the Examiner cites column 2, lines 50-55, of Petersen et al. as allegedly teaching such a feature, Applicant respectfully disagrees. Applicant notes that the cited portion of Petersen et al. merely describes "an objective" of Petersen et al. as being "to provide a more efficient procedure for locating segments causing data degradation in a telecommunications network so that a network manager can properly re-route data packets around these points, as required, to improve the quality of the overall connection" but fails to teach any manner in which to do so. As a specific example, Applicant can find no reference to a "connection in the user plane" in the cited portion of Petersen et al.

As another example, Applicant submits that the cited portion of Petersen et al. fails to disclose "triggering a reroute of the connection in the control plane based on the fault detected." As a specific example, Applicant can find no reference to a "connection in the control plane" in the cited portion of Petersen et al.

For the foregoing reasons, Applicant submits that the cited reference fails to anticipate the present invention as set forth in claim 42. Therefore, Applicant submits that claim 42 is in condition for allowance.

Regarding claim 43, Applicant submits that the cited portion of Petersen et al. fails to disclose "wherein detecting a fault further comprises detecting a fault using operation and management (OAM) services running within the user plane." While the Examiner cites column 9, lines 37-39, of Petersen et al. as allegedly teaching such feature, Applicant respectfully disagrees. Applicant notes the cited portion of Petersen et al. merely states, "FIG. 4 shows an exemplary format for an OAM AAL2 packet 400 used for the check AAL2 packets and the report AAL2 packets." As a specific example, Applicant can find no reference in the cited portion of Petersen et al. to "operation and management (OAM) services running within the user plane." Thus, Applicant submits that the Examiner has not presented a prima facie showing of Petersen et al. as allegedly anticipating the present invention as set forth in claim 43. Therefore, Applicant submits that claim 43 is in condition for allowance.

The Examiner has rejected claims 6, 8-14, 31, 38, 40, and 41 under 35 U.S.C. § 103(a) as being unpatentable over Petersen et al. in view of Hsing et al. (U.S. Patent No. 6,167,025). Applicant respectfully disagrees.

Regarding claims 6 and 40, Applicant submits that the cited portion of Petersen et al. fails to disclose the features of the claimed invention as set forth in claims 6 and 40 as alleged by the Examiner. For example, Applicant submits that Petersen et al. fail to disclose "establishing the connection in the data communication network, wherein the connection is managed by the control plane" or "establishing the soft permanent virtual connection (SPVC) in the ATM data communication network, wherein the connection is managed by a control plane." While the Examiner cites column 4, lines 30-37, as teaching such a feature, Applicant respectfully disagrees. As a specific example, Applicant can find no reference to "wherein the connection is managed by a control plane" within column 4, lines 30-37, of Petersen et al.

As another example, Applicant submits that Petersen et al. fail to disclose "monitoring status of a selected characteristic of the connection using a user connection monitoring function." While the Examiner cites column 2, lines 56-59, as teaching such a feature, Applicant respectfully disagrees. As a specific example, Applicant can find no reference to "using a user connection monitoring function" or "using operation and management (OAM) cells to monitor at least one characteristic of the

connection" within column 2, lines 56-59. Rather, column 2, lines 56-59, of Petersen et al. merely describe "another objective" of Petersen et al. as being "to provide a simplified and more efficient procedure for detecting and locating segments causing data degradation so that critical network resources are conserved" but fail to teach any manner in which to do so.

As another example, Applicant submits that Petersen et al. fail to disclose "when the status of the selected characteristic is determined to be unacceptable, initiating control plane rerouting of the connection" or "when status of the at least one characteristic is determined to be unacceptable, initiating control plane rerouting of the connection." While the Examiner cites column 2, lines 50-55, of Petersen et al. as teaching such a feature, Applicant respectfully disagrees. As a specific example, Applicant can find no reference to "initiating control plane rerouting of the connection." Rather, column 2, lines 50-55, of Petersen et al. merely describes an "objective" of Petersen et al. as being "to provide a more efficient procedure for locating segments causing data degradation in a telecommunications network so that a network manager can properly re-route data packets around these points, as required, to improve the quality of the overall connection" but fails to teach any manner in which to do so.

The Examiner acknowledges that Petersen et al. do not teach the signaling plane using private network-to-network interface (PNNI). The Examiner cites column 5, lines 39-43, of Hsing et al. as teaching the signaling plane using private network-to-network interface (PNNI) and alleges that it would have been obvious to one skilled in the art to modify Petersen to use the signaling plan using private network-to-network interface (PNNI) as allegedly taught by Hsing et al. in order to use in private ATM network. Applicant respectfully disagrees. The cited portion of Hsing et al. merely states, "In one particular embodiment, this method is implemented using capabilities of the PNNI signaling protocol developed in the ATM Forum for private ATM networks. The PNNI signaling protocol used in such an embodiment is based on a subset of UNI Signaling 4.0," but Applicant cannot find any suggestion in the prior art to combine the teachings of Hsing et al. with the teachings of Petersen et al. or any evidence that any attempt to combine such teachings would yield the present invention as set forth in claims 6 and 40.

For the foregoing reasons, Applicant submits that the cited references, either alone or in combination, fail to anticipate or render obvious the present invention as set forth in claims 6 and 40. Therefore, Applicant submits that claims 6 and 40 are in condition for allowance.

Regarding claims 8, 31, and 38, the Examiner states that Hsing et al. teaches the connection is a switched connection and cites column 3, lines 47-50. Applicant respectfully disagrees. The cited portion of Hsing et al. states, "In ATM networks where virtual connections are established on demand, e.g., in the case of switched virtual connections, the problem of VPI/VCI exhaustion can be significant." Applicant cannot find any suggestion in the prior art to combine the teachings of Hsing et al. with the teachings of Petersen et al. or any evidence that any attempt to combine such teachings would yield the present invention as set forth in claims 8, 31, and 38. Thus, Applicant submits that the cited references, either alone or in combination, fail to anticipate or render obvious the present invention as set forth in claims 8, 31, and 38. Therefore, Applicant submits that claims 8, 31, and 38 are in condition for allowance.

Regarding claim 9, the Examiner states that Petersen et al. teach the user connection monitoring function utilizes operation and management (OAM) cells and cites column 9, lines 37-39. Applicant has presented arguments for the allowability of claims from which claim 9 depends. Thus, Applicant submits that claim 9 is also in condition for allowance.

Regarding claim 10, the Examiner states that Petersen et al. teach the user connection monitoring function includes OAM continuity checking and cites column 9, lines 10 and 11. Applicant respectfully disagrees. While the Examiner cites column 9, lines 10 and 11, as teaching "wherein the user connection monitoring function includes OAM continuity checking," the cited portion of Petersen et al. states, "...or factors (e.g., a packet count and/or a block error detection code such as a bit interleave parity code) is accumulated...." Applicant can find no teaching of the claimed feature in the cited portion of Petersen et al. Thus, Applicant submits that the Examiner has not presented a *prima facie* showing of Petersen et al. as allegedly anticipating or allegedly rendering obvious the claimed invention as set forth in claim 10. Therefore, Applicant submits that claim 10 is in condition for allowance.

Regarding claim 11, Applicant submits that the cited portion of Petersen et al. fails to disclose the claimed invention as set forth in claim 11. While the Examiner cites column 5, lines 8-11, as teaching "wherein determining that the status of the selected characteristic is unacceptable further comprises detecting a loss of continuity for a predetermined time period," the cited portion of Petersen et al. states, "Upon receiving the activation AAL2 packet, which contains, among other things, an estimation as to how long the segment performance monitoring session is expected to last,...." Applicant can find no teaching of the claimed feature in the cited portion of Petersen et al. For

example, Applicant can find no teaching of the "estimation as to how long the segment performance monitoring session is expected to last" as relating to "a loss of continuity for a predetermined time period." Thus, Applicant submits that the Examiner has not presented a *prima facie* showing of Petersen et al. as allegedly anticipating or allegedly rendering obvious the claimed invention as set forth in claim 11. Therefore, Applicant submits that claim 11 is in condition for allowance.

Regarding claim 12, the Examiner states that Petersen et al. teach the user connection monitoring function includes OAM performance monitoring and cites column 9, lines 37-39. Applicant has presented arguments for the allowability of claims from which claim 12 depends. Thus, Applicant submits that claim 12 is also in condition for allowance.

Regarding claim 13, the Examiner states that Petersen et al. teach the selected characteristic further comprises a plurality of selected characteristics, wherein each selected characteristic of the plurality of selected characteristics has a corresponding predetermined threshold, wherein determining that the status of the selected characteristic is unacceptable includes determining that a property corresponding to at least one selected characteristic of the plurality of selected characteristics exceeds the corresponding predetermined threshold for the at least one selected characteristics and cites column 9, lines 37-39, and column 16, lines 2-17. Applicant respectfully disagrees. While the Examiner cites column 16, lines 2-17, as teaching "wherein determining that the status of the selected characteristic is unacceptable further comprises determining that a property of the selected characteristic exceeds a predetermined threshold," the cited portion of Petersen et al. states, "Upon receiving the check AAL2 packet, the segment performance monitoring logic 935 similarly analyzes the generated and measured values in the check AAL2 packet, and, if necessary, the segment performance monitoring logic 935 also compares the generated value to the accumulated value. During the report phase, the segment performance monitoring logic 935 converts the check AAL2 packet into a report AAL2 packet by changing the UUI field in the AAL2 packet header to reflect an end-to-end packet, and by changing the OAM header from the binary code combination specifying a check AAL2 packet to the binary code combination specifying a report AAL2 packet. The segment performance monitoring logic 935 then causes the report AAL2 packet to be transmitted back to the source node, through the OAM multiplexer 925, the AAL2 link multiplexer 915, and over the AAL2 link 905." Applicant can find no teaching of the claimed feature in the cited portion of Petersen et al. Thus, Applicant submits that the Examiner has not presented a *prima facie* showing of Petersen et al. as allegedly anticipating or allegedly rendering obvious the claimed invention as set forth in claim 28.

For the foregoing reasons, Applicant submits that the cited references, either alone or in combination, fail to anticipate or render obvious the present invention as set forth in claim 13. Therefore, Applicant submits that claim 13 is in condition for allowance.

Regarding claim 14, the Examiner cites the same portions of Petersen et al. as were cited in regard to claim 13 above. Applicant submits that not only is claim 14 not anticipated or rendered obvious in light of the deficiencies of the Petersen et al. reference as discussed above in reference to claim 13, but also Applicant cannot identify teaching as to the subject matter of claim 14 in the Petersen et al. reference.

For the foregoing reasons, Applicant submits that the cited references, either alone or in combination, fail to anticipate or render obvious the present invention as set forth in claim 14. Therefore, Applicant submits that claim 14 is in condition for allowance.

Regarding claim 41, the Examiner states that Petersen et al. teaches the OAM cells as OAM continuity checking cells, wherein the at least one characteristic includes continuity, wherein status of the continuity is determined to be unacceptable when a lack of continuity is detected for a time period that exceeds a configurable threshold and cites column 9, lines 10 and 11, and column 16, lines 2-17. While the Examiner cites column 16, lines 2-17, as teaching "wherein the at least one characteristic includes continuity, wherein status of the continuity id determined to be acceptable when a lack of continuity is detected for a time period that exceeds a configurable threshold," the cited portion of Petersen et al. states, "Upon receiving the activation AAL2 packet, which contains, among other things, an estimation as to how long the segment performance monitoring session is expected to last,...." Applicant can find no teaching of the claimed feature in the cited portion of Petersen et al. For example, Applicant can find no teaching of the "estimation as to how long the segment performance monitoring session is expected to last" as relating to "when a lack of continuity is detected for a time period that exceeds a configurable threshold." Thus, Applicant submits that the Examiner has not presented a *prima facie* showing of Petersen et al. as allegedly anticipating or allegedly rendering obvious the claimed invention as set forth in claim 26. Therefore, Applicant submits that claim 26 is in condition for allowance.

The Examiner states that claim 7 would be allowable if rewritten to overcome the rejection under 35 U.S.C. § 112, second paragraph, and to include all of the limitations of the base claim and any intervening claims. Applicant has amended claim 7. Applicant has presented arguments for the

allowability for the claims from which claim 7 depends. Thus, Applicant submits that claim 7 is in condition for allowance.

The Examiner states that claims 15-22, 29, 30, 32-34, 37, and 44-46 are objected to as being dependent upon a rejected base claim but states that they would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicant has presented arguments for the allowability of the claims from which claims 15-22, 29, 30, 32-34, 37, and 44-46 depend. Thus, Applicant submits that claims 15-22, 29, 30, 32-34, 37, and 44-46 are in condition for allowance.

In conclusion, Applicant has overcome all of the Office's rejections, and early notice of allowance to this effect is earnestly solicited. If, for any reason, the Office is unable to allow the Application on the next Office Action, and believes a telephone interview would be helpful, the Examiner is respectfully requested to contact the undersigned attorney.

Respectfully submitted,

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Date

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